THE HYDERABAD RECORD OF RIGHTS IN LAND REGULATION, 1358 F.

No. LVIII OF 1358 F.

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*THE HYDERABAD RECORD OF RIGHTS IN LAND REGULATION, 1358 F.

No. LVIII OF 1358 FASLI.

Whereas it is expedient to amend the law relating to the preparation and maintenance of a record of rights in land in the Hyderabad State ;

Now, therefore, in exercise of the authority vested in me for the administration of the Hyderadad State and of all other powers enabling me in this behalf I hereby make the following Regulation :—

Short title, extent and commencement.

1. (1) This Regulation may be called the Hyderabad Record of Rights in Land Regulation, 1358 Fasli.

(2) It extends to the whole of the Hyderbad State.

(3) In any village in which a record of rights is being prepared in pursuance of section 3 of the Hyderabad Record of Rights in Land Act (No. I of 1346 F.) on the date on which this Regulation is published in the Jarida, or has been completed in pursuance thereof before the said date, this Regulation shall, subject to the provisions of section 19, come into force on the said date.

(4) In any other village this section and section 19 (in so far as it repeals the Hyderabad Record of Rights in Land Act, No. I of 1346 F.) shall come into force on the date of the publication of this Regulation in the Jarida and the remaining provisions of this Regulation shall come into force on the date on which Government by notification directs the said provisions to apply to such village or to a local area including such village :

Provided that Sections 11 and 13 shall not come into force in any village until the expiration of two years from the date of the issue in respect of that village of the notification referred to in sub-section (2) of section 4.

2. In section 2 of the Hyderabad Land Revenue Act :—

Amendment of Section 2 of the Hyderabad Land Revenue Act.

(1) For clauses (6), (7) and (8) the following clauses shall be substituted, namely :—

(6) " to hold land " or to be a " land-holder " or " holder " of land means to be lawfully in possession of land, whether such possession is actual or not ;

(7) " holding " means a portion of land held by a holder ;

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(8) " superior holder " means a land-holder entitled to receive rent or land revenue from other land-holder (hereinafter called " inferior holders ") whether he is accountable or not for such rent or land revenue, or any part thereof to Government ;

(8-*a*) " occupation " means possession ;

(8-*b*) " to occupy land " means to possess or to take possession of land.

(8-*c*) " occupant " means a holder in actual possession of unalienated land other than an asami shikmi ; provided that where the holder in actual possession is an asami shikmi, the superior holder shall be deemed to be the occupant ;

(8-*d*) " occupancy " means a portion of land held by an occupant ;

(2) For clause (13) the following shall be substituted, namely :—

" (13) " asami shikmi " means a lessee, whether holding under an instrument or under an oral agreement, and includes a mortgagee of an asami shikmi's rights with possession, but does not include a lessee holding directly under Government ;"

(3) For clause (14) the following shall be substituted, namely :—

" (14) " village " includes a town or city and all the land belonging to a village, town or city ;" and

(4) After clause (17) the following clause shall be inserted, namely :—

" (18) " chavdi " includes in any village in which there is no chavdi, such place as the Taluqdar may direct shall be deemed to be the chavdi for the purposes of this Act ."

Definitions.

3. In this Regulation unless there is anything repugnant in the subject or context—

(*a*) " Hyderabad Land Revenue Act " means the Land Revenue Act of His Exalted Highness the Nizam's Dominions (No. VIII of 1317 F.);

(*b*) " landlord " means a lessor ;

(*c*) " land records " means records maintained under the provisions of, or for the purposes of, this Regulation and the Hyderabad Land Revenue Act ;

(*d*) " certified copy " or " certified extract " means a copy or extract, as the case may be, certified in the manner prescribed by section 62 of the Hyderabad Evidence Act ;

(*e*) " prescribed " means prescribed by rules made under this Regulation ;

(*f*) words and expressions used in this Regulation but not defined therein shall have the meaning assigned to them in the Hyderabad Land Revenue Act, the word "tenant" in this Regulation shall have the meaning assigned in that Act to the expression 'Asami Shikmi.'

Preparation and maintenance of record of rights.

4. (1) As soon as may be after the issue of a notification under sub-section (4) of section 1 directing the provisions of this Regulation to apply to a village or local area there shall be prepared and thereafter maintained for that village or, as the case may be, for every village included in that local area, a record of rights in all lands belonging thereto; the said record of rights shall include the following particulars, namely:—

(*a*) the names of all persons who are holders, occupants, owners or mortgagees of land or assignees of the rent or revenue thereof;

(*b*) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching;

(*c*) the rent or revenue (if any) payable by or to any of such persons;

(*d*) such other particulars as may be prescribed:

Provided that notwithstanding anything contained in clause (*a*) the names of tenants shall not be included in the record of rights unless their tenancies are perpetual tenancies or tenancies of any such other description as Government may by notification specify in this behalf either generally or for the purposes of any specified village or of villages included in any specified area.

(2) As soon as may be after the completion of the preparation of the record of rights referred to in sub-section (1) such completion shall be notified in the Jarida and published in such other manner, if any, as Government may direct.

(3) Any person affected by an entry in such record may within a period of two years from the date of the notification referred to in sub-section (2) apply for rectification of such entry to such officer as Government may empower in this behalf.

Acquisition of rights to be reported.

5. Any person who, after the expiry of a period of six months from the date of a notification under sub-section (4) of section 1 directing the provisions of this Regulation to apply to a village or local area, acquires by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise any right as holder, occupant, owner, mortgagee or landlord of land in the village or, as the case may be, in a village included in the local area to which the notification relates, or as assignee of the rent or revenue of such land, shall report his acquisition of such right orally or in writing to the village Patwari within three months from the date of such acquisition, and the village Patwari shall at once give a written acknowledgment of the receipt of such report to the person making it:

Provided that an acquisition of rights as a tenant shall not be required to be reported unless the tenancy is a perpetual tenancy or a tenancy of a description which has been specified either generally or for the purposes of the village concerned or of a local area including that village in a notification under the proviso to sub-section (1) of section 4 ;

Provided further that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property, shall make the report to a village Patwari :

Provided further that any person acquiring a right by virtue of a registered document shall not be required to report the acquisition.

Explanation.—1. The rights referred to in this section include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 88 of the Transfer of Property Act.

Explanation.—2. A person in whose favour a mortgage is discharged or extinguished, or a lease is determined, acquires a right within the meaning of this section.

Register of mutations and register of disputed cases.

6. (1) The village Patwari shall enter in a register of mutations every report made to him under section 5 and shall also make an entry therein respecting the acquisition of any right of a description to which section 5 applies which he has reason to believe to have taken place and of which a report has not been made to him.

(2) Whenever a village Patwari makes an entry in the register of mutations, he shall, at the same time, post a complete copy of the entry in a conspicuous place in the chavdi and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) If any objection to an entry under sub-section (1) in the register of mutations is made either orally or in writing to the village Patwari, it shall be the duty of the village Patwari to enter the particulars of the objection in a register of disputed cases.

(4) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations by such officers and in such manner as may be prescribed.

(5) Entries in the register of mutations shall be tested by a Revenue Officer of a rank not lower than that of a Tahsildar, who after making such corrections, if any, as he finds to be required shall certify the entries.

(6) After certification in accordance with sub-section (5) entries in the register of mutations shall be transferred to the record of rights in such manner as may be prescribed.

(7) Acquisition of rights in tenancies in respect of which acquisitions of rights are, under the first proviso to section 5 not required to be reported shall, be entered in a register of tenancies in such manner and under such procedure as may be prescribed.

Obligation to furnish information.

7. (1) Any person whose rights, interests or liabilities are required to be or have been entered in any record or register under this Regulation shall be bound, on the requisition of any Revenue Officer or village Patwari engaged in compiling or revising the record or register, to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power :

Provided that no such requisition shall be made by a village Patwari unless it has been previously countersigned by a Revenue Officer of a rank not lower than that of a Peshkar.

(2) A Revenue Officer to whom any information is furnished or before whom any document is produced in accordance with a requisition under sub-section (1) shall at once give a written acknowledgment thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature stating the fact of its production and the date thereof.

Penalty for failing to furnish information.

8. Any person failing to make a report required by section 5 or to furnish any information or to produce any document requisitioned under section 7 within the time appointed in section 5 or section 7, as the case may be, shall be liable at the discretion of the Taluqdar to a fine not exceeding twenty five rupees which shall be leviable as an arrear of land revenue.

Division of survey numbers into sub-divisions.

9. (1) Survey numbers may from time to time be divided into as many sub-divisions as may be required whether by reason of the acquisition of rights in land or otherwise.

(2) The division of survey numbers into sub-divisions and the fixing of the assessment of the sub-divisions shall be carried out and from time to time revised in accordance with rules made under this Regulation :

Provided that the rate of the assessment per acre applicable to any survey number or sub-division shall not be enhanced during any term for which such assessment may have been fixed under section 83 of the Hyderabad Land Revenue Act, unless such assessment is liable to alteration under section 50 of the said Act.

(3) The area and assessment of such sub-divisions shall be entered in such land records as may be prescribed.

Requisition of assistance in preparation of maps.

10. Subject to rules made under this Regulation :—

(*a*) any Revenue Officer or village Patwari may, for the purpose of preparing or revising any map or plan required for

or in connection with any record or register under this Regulation, exercise any of the powers of a Survey Officer under Section 78 of the Hyderabad Land Revenue Act;

(*b*) any Revenue officer of a rank not lower than that of a Second Taluqdar or of a Survey Officer may assess the cost of the preparation or revision of such map or plan, including the cost of clerical labour and supervision, and all other contingent expenses on the lands to which such maps or plans relate, and such costs shall be recoverable as a revenue demand.

Certified copy of record to be annexed to plaint or application.

11. (1) The plaintiff or applicant in every suit or application as hereinafter defined relating to land shall annex to the plaint or application a certified copy of any entry in the record of rights, register of mutations or register of tenancies relevant to such land.

(2) If the plaintiff or applicant fail to comply with sub-section (1) for any cause which the court deems sufficient, he shall produce such certified copy within a reasonable time to be fixed by the court and if such certified copy is not so annexed or produced, the plaint or application shall be rejected, but the rejection thereof shall not of its own force preclude the presentation of a fresh plaint in respect of the same cause of action or of a fresh application in respect of the same subject-matter, with a certified copy annexed.

(3) After the disposal of any case in which a certified copy of any such entry has been recorded, the court shall communicate to the Taluqdar any error appearing in such entry and any alteration therein that may be required by reason of the decree or order, and a copy of such communication shall be kept with the record. The Taluqdar shall in such case cause the entry to be corrected in accordance with the decree or decision of the court, so far as it adjudicates upon any right required to be entered in the record of rights, register of mutations or register of tenancies. The provisions of this sub-section shall apply also to an appellate or revisional court, provided that, in the case of an appellate or revisional decree or order passed by the High Court, the communication shall be made by the court from which the appeal lay or the record was called for.

(4) In this section—

(*a*) "suit" means a suit to which the provisions of the Code of Civil Procedure apply;

(*b*) "application" means an application—

(1) for the execution of a decree or order in a suit;

(2) for the filing of an agreement stating a case for the opinion of the court under the Code of Civil Procedure;

(3) for the filing of an agreement to refer to arbitration under Section 556 of the said Code;

(4) for the filing of an award under Section 559 of the said Code;

(5) for obtaining possession, or removal of obstruction to existing possession under Section 74 of the Hyderabad Land Revenue Act; or

(6) of any other kind to which the Government may, by notification in the Jarida, direct that this section shall apply;

(*c*) an application shall be deemed to relate to land if the decree or other matter, with respect to which the application is made, relates to land;

(*d*) a suit, decree or other matter relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit, decree or other matter relating to the rent or tenancy of land.

Refusal of assistance under Section 72 of the Hyderabad Land Revenue Act.

12. Notwithstanding anything in Section 72 of the Hyderabad Land Revenue Act, or in any other orders for the time being in force, the Tahsildar shall refuse assistance to any superior holder, if his claim to such assistance is not supported by an entry or entries duly made in the record or rights, register of mutations or register of tenancies.

Presumption of correctness of entries in record of rights and register of mutations.

13. Any entry in the record of rights and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Bar of suits.

14. No suit shall lie against the Government or any officer of Government in respect of a claim to have an entry made in any record or register maintained under this Regulation, or to have any such entry omitted or amended.

Appeal.

15. (1) Any person affected by an order made on an application for rectification under sub-section (3) of Section 4, or by an order made under sub-section (4) or an entry certified under sub-section (6) of Section 6 or by the division of a survey number into sub-divisions or the assessment of such sub-divisions under sub-sections (1) and (2) of Section 9 may, within a period of one month from the date of communication to the party of such order, certification, division or assessment, appeal to such officer as may be empowered by Government in this behalf and the decision of such officer on such appeal shall be final.

(2) The Taluqdar may of his own motion or on the application of a party call for and examine any records made under Section 4 or Section 6 and pass such orders as he may think fit:

Provided that no order which would adversely affect any person shall be passed except after hearing that person.

Inspection and copies.

16. Subject to such conditions and to the payment of such fees as may be prescribed the record of rights and the register of mutations shall be open to the inspection of the public at reasonable hours, and certified extracts therefrom or certified copies thereof shall be given to all persons applying for the same.

Modification of laws inconsistent with this Regulation.

17. (1) In relation to any village in which the provisions of this Regulation are in force by virtue of the proviso to sub-section (1) of section 19 or of a notification under sub-section (4) of section 1, any provisions of the Hyderabad Land Revenue Act or of any other law for the time being in force which are inconsistent with the provisions of this Regulation shall have effect subject to such omissions or modifications as may be required for the removal of the inconsistency.

(2) In particular and without prejudice to the generality of sub-section (1), Sections 103 and 141 of the Hyderabad Land Revenue Act shall have effect in relation to such village as if for the word "pattadar" in each of the said sections there were substituted the word "occupant."

Rules.

18. (1) Government may, by notification, make rules not inconsistent with the provisions of this Regulation to carry out the purposes and objects thereof and for the guidance of all persons in matters connected with the enforcement of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made—

(*a*) regulating the division of survey numbers into sub-divisions and the fixing of the assessment of sub-divisions under Section 9;

(*b*) regulating the construction, laying out, maintenance and repair of boundary marks;

(*c*) regulating the compilation, maintenance and revision of the record of rights and the register of mutations, disputed cases and tenancies, and providing for the forms in which they are to be compiled and the officers by whom the said records and registers are to be tested and revised;

(*d*) regulating the exercise by officers appointed in this behalf and by Revenue Officers of the powers of Survey Officer and the assessment of costs and expenses under section 10;

(*e*) providing for the mode, form and manner in which appeals under this Regulation shall be drawn up and presented;

(*f*) regulating the records, registers, accounts, maps and plans to be maintained for the purposes of this Regulation and the manner and forms in which they shall be prepared and maintained;

(*g*) providing for any matter which is to be or may be prescribed.

(3) In making a rule under this section Government may direct that a breach of the same shall without prejudice to any other consequences of such breach be punishable with fine not exceeding five hundred rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication.

19. (1) The Hyderabad Record of Rights in Land Act (No. 1 of 1346 F.) hereinafter in this section referred to as the repealed Act, is hereby repealed: Repeal and savings.

Provided that in respect of any village in which a record of rights is being prepared in pursuance of section 3 of the repealed Act on the date on which this Regulation comes into force, or has been completed in pursuance thereof before the said date, the provisions of this Regulation shall as from the said date have effect as if anything done under the repealed Act had been done under the corresponding provision of this Regulation and in particular as if the record of rights was being prepared in pursuance of a notification issued under sub-section (4) of section 1 of this Regulation, or, as the case may be, as if the record of rights had been prepared in pursuance of such notification and as if its completion had been notified under sub-section (2) of section 4.

(2) For the purposes of the proviso to sub-section (1) of this Section the notification under sub-section (1) of section 3 or sub-section (2) of section 4 in respect of such village shall be deemed to have issued on the date on which the preparation of a record of rights therein was commenced or, as the case may be, completed and if any question arises as regards the date of such commencement or completion the question shall be referred to Government whose decision shall be final.